

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

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| -----X | : | |
| BOOST WORLDWIDE, INC., | : | Case No. 11-cv-02467 |
| | : | |
| Plaintiff, | : | JUDGE CHRISTOPHER BOYKO |
| | : | |
| v. | : | |
| | : | ORDER |
| | : | |
| TONE'S WIRELESS, INC., | : | |
| | : | |
| | : | |
| Defendant. | : | |
| -----X | : | |

WHEREAS, on November 14, 2011, plaintiff Boost Worldwide, Inc. ("plaintiff" or "Boost") commenced the above-captioned action against defendant Tone's Wireless, Inc. ("Defendant" or "Tone's"), alleging trademark infringement pursuant to 15 U.S.C. § 1125(a) and 15 U.S.C. § 1114, false advertising pursuant to 15 U.S.C. § 1125, common law unfair competition, and common law unjust enrichment; and

WHEREAS, defendant was served with plaintiff's complaint on December 13, 2011; and

WHEREAS, on December 31, 2011, defendant executed a settlement agreement with plaintiff; and

WHEREAS, on March 6, 2012, the Court entered a default against defendant for failure to plead or otherwise defend; and

WHEREAS, Boost currently has the following trademarks registered with United States Patent and Trademark Office: registration No. 2,952,818 (the "'818 Mark"), registration No. 3,163,288 (the "'288 Mark"), registration No. 3,254,019 (the "'019 Mark"), registration No.

2,936,743 (the “‘743 Mark”). The ‘818, ‘288, ‘019 and ‘743 Marks hereafter collectively are referred to as the “Boost Marks” or the “Marks;” and

WHEREAS, the Court having found that defendant has infringed upon the Boost Marks, in violation of 15 U.S.C. § 1125(a) and 15 U.S.C. § 1114; and

WHEREAS, the Court having considered plaintiff’s application for entry of a default judgment against defendant; and

WHEREAS, for good cause shown;

It is on this 4th day of September 2012, ORDERED that Consent Judgment be entered against defendant as follows:

1. Defendant promptly shall remove all signage, displays and advertising containing any Boost, Sprint or Virgin Mobile trademarks from its storefront or any other area in which it is selling telecommunications equipment. To the extent reasonably possible, defendant will return all signage to Boost.

2. Defendant also promptly shall cease (i) all use of any Boost, Sprint or Virgin Mobile trademarks; and (ii) the unauthorized sale or processing of replenishment airtime or Re-Boost airtime for Boost handsets and other products.

3. Defendant hereby is permanently enjoined and restrained from (i) using any Boost, Sprint or Virgin Mobile trademarks at any time; (ii) selling any Boost, Sprint or Virgin Mobile handsets or other products at any time; and (iii) the sale of replenishment minutes or Re-Boost minutes for Boost handsets and other products.

4. Pursuant to 15 U.S.C. § 1116, defendant also hereby is required to file with the Court, and serve on plaintiff, a written report under oath detailing the manner in which defendant

has complied with the terms of this Order.

SO ORDERED.

9/5/12
Date

Christopher A. Boyko
Honorable Christopher Boyko
Northern District Ohio Judge

Approved as to form and content:

Date: 9/4/12

[Signature]
William Farah (P73296)
Attorney for Plaintiff

Date: 9/4/12

[Signature]
Nate N. Malek (0067380)
Attorney for Defendant